

REMARKS

The Final Office Action dated July 22, 2009 has been carefully considered. Claim 1 has been amended. Claims 1-40 are in this application.

Claims 7 and 27-40 are allowed. Claims 10, 12-13 and 17-19 were objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form.

The previously presented claims 1-6, 8-9, 11, 14-16 and 20-26 were rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent Application Publication No. 2003-0109697 to Shepard et al.

Applicant submits that the proviso of previously presented claim 1 recites that all compounds of Formula I which have $n = 1$ and $X = Y = H$ and $Ar =$ unsubstituted phenyl are excluded from the scope of the claim, except for the particular case where the recited exclusion does not apply. Applicant has amended claim 1 to more clearly recite the exclusion of the present invention. The Examiner indicated at page 3 of the Office Action dated July 22, 2009 that the proviso means that the excluded subject matter only applies where R is $CH_2-CH(CH_3)_2$ and one of R' and R'' is H and one of R' and R'' is CH_3 . However, the meaning of proviso of claim 1 is the opposite to the meaning indicated by the Examiner. In particular, claim 1 excludes from Formula I compound or compounds where $n = 1$, $X = Y = H$ and $Ar =$ unsubstituted phenyl, except where R is $CH_2-CH(CH_3)_2$ and one of R' and R'' is H and one of R' and R'' is CH_3 .

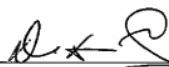
The compounds of claims 12 and 24 in Shepard et al. referred to by the Examiner both have, using the nomenclature of the present application, $X - Y = H$, $n = 1$ and $Ar =$ unsubstituted phenyl (and do not have R , R' and R'' such that the above proviso does not apply) and are thus excluded by the proviso presented in claim 1. In addition, Applicant notes that compound CPF 35 was deleted from claim 20 in the response submitted April 1, 2009.

Accordingly, Shepard et al. do not include each of the limitations of the present claims and the present claims are not anticipated by Shepard et al.

In view of the foregoing, Applicant submits that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

Dated: October 20, 2009


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